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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Numbering Resource Optimization )

CC Docket No. 99-200  
DA 00-2011

## REPLY COMMENTS OF AT&amp;T CORP.

Pursuant to the Public Notice released September 5, 2000, AT&T Corp.

("AT&T") hereby respectfully submits its reply to the comments of other parties concerning the Pooling Administrator ("PA") Requirements Document ("PARD") forwarded to the Commission by the North American Numbering Council on July 20, 2000.

At the outset, the Commission should consider two overarching factors as it reviews the proposed PARD. First, the Commission's highest priority should be to begin the national pooling roll out as rapidly as possible. As stated in its initial comments, AT&T supports adoption of the PARD without modification. Several commenters raise questions regarding broad policy issues that have no place in the instant proceeding, or quibble over questions of tone or phrasing that will have no substantive effect. The PA Requirements Document is the product of a consensus process and, as such, does not reflect the precise wishes of any party. The Commission should not introduce delay by "fly-specking" the PARD.

Second, the Commission's review must take into account its ruling in the recent NRO Order that "[u]niform standards for thousands-block number pooling are necessary to minimize the confusion and additional expense related to compliance with inconsistent

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regulatory requirements.”<sup>1</sup> It would be both arbitrary and procedurally impermissible to accede to the suggestions of some commenters that the PARD be amended to permit state commission orders to accomplish what the NRO Order expressly prohibits -- that is, to allow state-by-state variations in pooling administration.

AT&T offers the following reply to certain specific contentions by other parties:

- In their joint comments, the Maine, New Hampshire and California commissions argue that the PARD “should state that INC guidelines and procedures may be modified by ... state regulatory orders.”<sup>2</sup> This proposal should be rejected. As shown above, the NRO Order expressly rejected the notion that individual states should be permitted to set pooling standards, and ruled that the Commission’s goal is to “maintain uniformity in the implementation of thousands-block number pooling on a nationwide basis.”<sup>3</sup>

In addition, nothing in the Commission’s rules or orders permits state commissions to modify INC guidelines, which govern the NANPA’s number administration activities.<sup>4</sup> To permit more than fifty individual regulatory bodies<sup>5</sup> to modify those guidelines at will would directly contravene the Commission’s longstanding conclusion that permitting state

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<sup>1</sup> Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200 (released March 31, 2000) ¶ 169 (emphasis added) (“NRO Order”).

<sup>2</sup> Joint Comments of ME, NH and CA Commissions, p. 3.

<sup>3</sup> NRO Order ¶ 169.

<sup>4</sup> See, e.g., Third Report and Order, Administration of the North American Numbering Plan, CC Docket No. 92-237, FCC 97-372 (released October 9, 1997) ¶ 95 (“[t]he NANPA ... shall follow Commission rules and regulations and the guidelines developed by the INC and other industry groups pertaining to administration and assignment of numbering resources.”); 47 C.F.R. §§ 52.13(b), 52.13(b)(3), 52.13(d), 52.15(d).

<sup>5</sup> 47 U.S.C. § 153(40) defines “state” to include the District of Columbia and U.S. territories and possessions, as well as the fifty states.

commissions to proceed with numbering administration measures "on a piecemeal basis" could "jeopardiz[e] telecommunications services throughout the country."<sup>6</sup> Moreover, nothing in the PARD or the Public Notice provides sufficient notice to permit such a drastic revision of the Commission's numbering regime.<sup>7</sup> Notice that the Commission is considering technical requirements for the entity that will administer thousands block number pooling could not possibly be construed to encompass granting state commissions the wholly novel power to amend INC guidelines.

- The Texas commission proposes that any changes to "guidelines and procedures" should be "approved by the Commission and state commissions before the PA is required to implement the changes."<sup>8</sup> This proposal should be rejected, as it is both vague and unworkable. The Texas commission does not specify the "guidelines and procedures" over which it urges state control. Even assuming that it intends to refer only to PARD itself, its comments provide no guidance as to how its proposal could be implemented. How would the approval of more than fifty agencies be solicited? How would decisions be made (e.g., would a simple majority govern)? And how could such a process possibly move at anything other than a glacial pace? In all events, to permit the kind of state control the Texas commission urges would, like the similar proposal by the joint state commissions, lead to a splintering of

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<sup>6</sup> Memorandum Opinion and Order and Order on Reconsideration, Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, 13 FCC Rcd 19009, 19022 ¶ 21 (1998) .

<sup>7</sup> See, e.g., Florida Power & Light Co. v. United States, 846 F.2d 765, 771 (D.C.Cir.1988), cert. denied, 490 U.S. 1045 (1989) (an agency "must provide sufficient factual detail and rationale ... to permit interested parties to comment meaningfully.").

<sup>8</sup> PUC Texas, p.2.

numbering and pooling standards that would be directly contrary to the Commission's stated policies.

- Several commenters argue that melding state pooling trials into the national pooling rollout will not take as long as implementing national pooling procedures in an NPA that does not yet have pooling, and argue that the PARD should therefore require the PA to implement pooling in more than 3 NPAs per NPAC region per quarter.<sup>9</sup> While AT&T agrees that it may prove that bringing state trials into the national pooling rollout will proceed more rapidly than implementing pooling in a new NPA, the Commission plainly may not establish a pooling rollout schedule in this proceeding. The NRO Order tentatively concluded that the pooling rollout “should encompass a maximum of three NPAs in each NPAC region per quarter.”<sup>10</sup> The proposed PARD merely echoes this requirement. If the Commission later modifies this finding, the PARD can and should be modified as well. However, the Public Notice for this proceeding plainly did not provide adequate notice to permit potential commenters to discern that it might be used as a forum to devise a national pooling rollout schedule, nor do the comments provide an adequate basis for the Commission to do so.

- Some commenters suggest that the PARD should permit the PA to “exercise its judgment” in sizing number pools and reviewing carriers months-to-exhaust forecasts.<sup>11</sup> The Commission should reject this proposal. The comments provide no guidance as to what standards should govern the PA's “judgment.” The PA's functions should be limited to carrying out clear directives from appropriate regulators and standards bodies. To permit a contractor

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<sup>9</sup> Cox, p. 7; PUC Texas, p. 2; Joint Comments of ME, NH and CA Commissions, p. 4.

<sup>10</sup> NRO Order ¶ 159.

<sup>11</sup> See PUC Texas, p. 4; Joint Comments of ME, NH and CA Commissions, p. 4.

simply to exercise its “judgment” would create a substantial risk that similarly situated competitors would not be treated equally, in violation of 47 U.S.C. § 251(e)(1)’s requirement that numbers be made available “on an equitable basis.” Moreover, it is difficult to imagine how the Commission could hope to assess the “judgment” of parties bidding for the PA contract, or how it might evaluate that quality when it sought to assess the PA’s performance.

- The Pennsylvania Office of Consumer Advocate (PAOCA) argues that the PARD should be amended to require the PA to release a carrier’s confidential data “to all parties ... who have entered into a reasonable Protective Order .....”<sup>12</sup> There is simply no grounds in this very limited proceeding for the Commission to depart from its longstanding and often-repeated rulings that carriers are entitled to hold certain numbering information confidential. Moreover, nothing in the Public Notice or in the PARD provides sufficient notice to potential commenters that the Commission might consider such a radical departure from its prior practice in this proceeding.

- Finally, the PAOCA also argues that the PA should be required to “establish and maintain relationships with .... consumers and their state-appointed public advocates”<sup>13</sup> in addition to relevant governmental and regulatory bodies. As a contractor whose sole responsibility is to implement the rules, contractual provisions, and other directives that bind it, there is simply no valid reason to require the PA to solicit input directly from consumers. This Commission and state commissions routinely seek public input, and are well able to represent the interests of consumers. Further, the PAOCA and other groups are free to participate in state and federal dockets such as the instant proceeding, as well as in the meetings of the NANC and

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<sup>12</sup> Pa. Consumer Advocate, p. 11.

<sup>13</sup> Id., p. 8.

industry standards bodies. In all events, nothing in the PAOCA's comments suggests how the PA might establish or maintain the "relationships" its comments seek, or what groups might be deemed to speak for the diverse interests of "consumers."

### CONCLUSION

AT&T urges the Commission to adopt the proposed Pooling Administrator Requirements Document and otherwise to act in a manner consistent with these reply comments and its initial comments in this proceeding.

Respectfully submitted,

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October 2, 2000

## **CERTIFICATE OF SERVICE**

I, Margaret Brue, do hereby certify that on this 2<sup>nd</sup> day of October, 2000, a copy of the foregoing "Reply Comments of AT&T Corp." was mailed by U.S. first-class mail, postage prepaid, to the parties listed below:

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